

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

EMMANUEL ONG, Individually and on
behalf of all others similarly situated,

Plaintiff,

v.

KITSAP RESIDENCES,

Defendant.

CASE NO. 3:22-cv-05095-DGE

ORDER ON JOINT MOTION FOR
COURT APPROVAL OF
SETTLEMENT AND DIMISSAL
WITH PREJUDICE (DKT. NO. 17)

This matter comes before the Court on the parties' Joint Motion for Court Approval of Settlement and Dismissal of Complaint with Prejudice (Dkt. No. 17). For the reasons discussed herein, the Court DENIES the parties' joint motion without prejudice to Plaintiff's ability to voluntarily dismiss this action.


On February 16, 2022, Plaintiff filed a collective action suit against Defendant Kitsap Residences pursuant to the Fair Labor Standards Act ("FLSA"), 29 U.S.C. § 201, *et seq.* (Dkt. No. 1.) Plaintiff has not, at present, moved for conditional class certification pursuant to 29 U.S.C. § 216(b).

1 In their joint stipulated motion, the parties ask the Court to enter an order approving their
2 settlement after scrutinizing it for fairness, in accord with *Lynn's Food Stores, Inc. v. United*
3 *States*, 679 F.2d 1350, 1352-53 (11th Cir. 1982). (Dkt. No. 17 at 3.) The Eleventh Circuit has
4 also extended its *Lynn's Food* rule to require court scrutiny of individual settlement of FLSA
5 wage claims. See *Nall v. Mal-Motels, Inc.*, 723 F.3d 1304, 1307 (11th Cir. 2013). The Ninth
6 Circuit has not adopted the rule articulated in *Lynn's Food*, see *Wilson v. Maxim Healthcare*
7 *Servs., Inc.*, No. C14-789RSL, 2017 WL 2988289, at *1 (W.D. Wash. June 20, 2017), and we
8 decline to do so here. Though other courts in the circuit have adopted the *Lynn's Food* rule,
9 most of these cases appear to occur in contexts where the approving court has already
10 conditionally certified a class. See, e.g., *Millan v. Cascade Water Servs., Inc.*, No.
11 112CV01821AWIEPG, 2016 WL 3077710, at *3 (E.D. Cal. May 31, 2016); *Otey v.*
12 *Crowdflower, Inc.*, No. 12-CV-05524-JST, 2016 WL 304747, at *3 (N.D. Cal. Jan. 26, 2016).

13 Accordingly, the Court declines to adopt the *Lynn's Food* rule and therefore DENIES the
14 parties' joint motion without prejudice. Plaintiff remains free to dismiss this case pursuant to
15 Federal Rule of Civil Procedure 41(a).

16 Dated this 21st day of October, 2022.

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David G. Estudillo
United States District Judge